

FISCAL MEMORANDUM
HB 4129 – SB 4173

May 15, 2008

SUMMARY OF AMENDMENT (018697): Deletes the language of the original bill; makes multiple changes, including technical corrections, to Title 67 of Tennessee Code Annotated; such changes include changes to state and local sales tax law including, but not limited to, the repeal of the exemption for \$150 of health club membership dues; the authorization for \$100,000 of exempt sales made by a public library support organization; expansion of sales tax exemptions for kerosene and copies of hospital records; expansion of state and local sales tax allocations to include earmarks for debt service on qualified baseball and softball complexes and indoor sports facilities; and the application of state and local sales tax to digital equivalents of music, books, movies, etc. This amendment also makes multiple changes to franchise and excise tax law including, but not limited to, requiring financial institutions to disclose dividends received from a captive REIT; prohibiting a taxpayer from moving assets to exempt affiliates for the purpose of avoiding tax when assets are sold; and various changes involving economic development incentives such as tax credits, time periods for meeting capital investment requirements, carry forward provisions, etc. This amendment also makes changes to the Courthouse Square Revitalization Pilot Project of 2005; requires automobile manufacturers to pay use tax when motor vehicles are pulled from inventories for their own use; deletes statutory provisions regarding periodic review of sales tax exemptions; and eliminates (over a four-year period) the current 25 percent deduction allowed to financial institutions that compute net worth on a consolidated basis. Other changes include exempting capital stock of captive insurance companies from property tax; prohibiting attorney fees from being awarded to taxpayers following findings of fraud, and special allocations of realty transfer tax revenue to the 1986 Wetlands Acquisition Fund, the Local Parks Land Acquisition Fund, the State Land Acquisition Fund, and the Agricultural Resource Conservation Fund.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue - \$965,700

Increase Local Revenue - \$310,400

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue – Net Impact – Exceeds \$13,950,000

Increase State Expenditures - \$80,000/One-Time

Foregone State Revenue – Exceeds \$2,000,000

Increase Local Revenue – Net Impact - \$80,000

Other Fiscal Impact – If a version of the federal gas tax holiday were to pass without holding states harmless from the loss of federal funds, then state highway funds will decrease by approximately \$182,400,000 for FY08-09.

Assumptions applied to amendment:

Sections that increase state and/or local government revenue:

- Repeal of exemption on first \$150 of annual health club membership dues – estimated to increase state revenue by \$1,000,000 per year; increase local revenue by \$300,000 per year.
- Motor vehicles pulled from inventories of auto manufacturers becoming sales and use taxable – estimated to increase state revenue by \$87,500 per year; increase local revenue by \$30,000 per year.
- Requiring financial institutions to disclose dividends received from captive REITs – estimated to increase state revenue by \$100,000 per year.
- Prohibiting certain taxpayers from moving assets to exempt affiliates prior to the sale of such assets – estimated to increase state revenue by \$10,000,000 per year.
- Phase-out of consolidated net worth deductions applied to the franchise and excise tax liabilities of financial institutions – estimated to increase state revenue by \$4,000,000 in FY08-09; by \$6,000,000 in FY09-10; by \$8,400,000 in FY10-11; and by \$11,600,000 in FY11-12 and each year thereafter.
- The total increase to state revenue is estimated to be \$15,187,500 in FY08-09; \$17,187,500 in FY09-10; \$19,587,500 in FY10-11, and \$22,787,500 in FY11-12 and each year thereafter.
- The total increase to local government revenue is estimated to be \$330,000 per year.

Sections that decrease state and/or local government revenue:

- Diverting sales tax revenue generated from non-sporting events held at certain sports facilities to pay debt on such sports facilities – estimated to decrease state revenue by \$350,000 per year; decrease local revenue by \$120,000 per year.
- Diverting sales tax revenue generated from admissions to events held at the softball facility adjacent to Pringles Park – estimated to decrease state revenue by \$17,500 per year; decrease local revenue by \$6,000 per year.
- Changes related to sales tax exemptions on kerosene – estimated to decrease state revenue by \$800,000 per year.
- Exempting certain aspects of pure captive insurance companies from business property taxation – Decrease to local government revenue is reasonably estimated to be \$100,000 per year.
- Sales tax exemptions allowed to public library support organizations – estimated to decrease state revenue \$70,000 per year; decrease local revenue by \$24,000 per year.
- The total decrease to state revenue is estimated to be \$1,237,500 per year.
- The total decrease to local revenue is estimated to be \$250,000 per year.

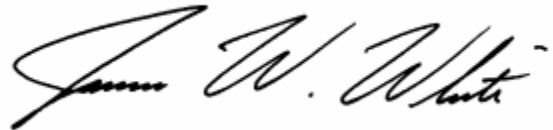
All Other Assumptions applied to amendment:

- According to the Department of Revenue (DOR), the remaining franchise and excise tax provisions and the remaining sales tax provisions do not have a significant revenue impact.
- According to DOR, there are no components of the streamlined sales tax provisions having a significant revenue impact.
- According to DOR, the technical corrections sections of this amendment are not expected to cause any significant impact on revenue.
- According to DOR, state and local sales tax is currently being collected on the digital equivalents of various media purchases (music, movies, books, etc.).
- Economic development incentives (tax credits) related to green energy, integrated suppliers, and others – foregone state revenue is estimated to exceed \$2,000,000 per year.
- According to DOR, if a version of the federal gas tax holiday were to pass without holding states harmless from the loss of federal funds, then state highway funds will decrease by approximately \$182,400,000 for FY08-09.

- Total realty transfer tax revenue will remain unchanged and the allocations of such revenue made to the 1986 Wetlands Acquisition Fund, the Local Parks Land Acquisition Fund, the State Land Acquisition Fund, and the Agricultural Resource Conservation Fund in FY08-09 will remain unchanged relative to allocations made during FY07-08.
- No revenue or expenditure impact associated with changes made to the Courthouse Square Revitalization Pilot Project of 2005.
- The total net increase to state revenue is estimated to exceed \$13,950,000 per year.
- The total net increase to local government revenue is estimated to be \$80,000 per year.
- The one-time increase to state expenditures for computer and software modifications are estimated to be \$80,000.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with a long horizontal stroke at the end.

James W. White, Executive Director

/rnc